

CITY OF CEDARBURG  
PLAN COMMISSION

PLN20180507-1  
UNAPPROVED MINUTES

May 7, 2018

A regular meeting of the Plan Commission of the City of Cedarburg was held on Monday, May 7, 2018 at Cedarburg City Hall, W63 N645 Washington Avenue, second floor, Council Chambers. The meeting was called to order at 7:00 p.m. by Mayor O'Keefe.

Roll Call: Present – Mayor Michael J. O'Keefe, Council Member Patricia Thome, Mark Burgoyne, Greg Zimmerschied, Heather Cain, Adam Voltz

Also Present - City Planner Jon Censky, Assistant City Attorney Tim Schoonenberg, Administrative Secretary Darla Drumel, news media

**STATEMENT OF PUBLIC NOTICE**

Administrative Secretary Drumel confirmed that the agenda for the meeting had been posted and distributed in compliance with the Wisconsin Open Meetings Law.

**REVIEW AND CERTIFY CODE OF ETHICS**

Commissioners acknowledged receipt of the Code of Ethics and agreed to abide by them.

**ELECTION OF VICE CHAIRPERSON**

Council Member Thome nominated Mark Burgoyne as Vice Chairperson. The nomination was seconded by Commissioner Cain. No other nominations were offered.

A motion was made by Commissioner Zimmerschied, seconded by Council Member Thome, to close the nominations and the motion carried without a negative vote. By unanimous vote, Mark Burgoyne was elected as Vice Chairperson.

**APPROVAL OF MINUTES**

Commissioner Zimmerschied moved to approve the minutes of April 11, 2018. The motion was seconded by Commissioner Cain and carried without a negative vote.

**COMMENTS AND SUGGESTIONS FROM CITIZENS**

Mayor O'Keefe offered the opportunity for the public to speak on any issue unrelated to the agenda items. He advised that the Plan Commissioners would not be able to respond to any comments since they were not noticed on the agenda. None were offered.

**PUBLIC HEARING REGARDING REQUEST FOR A CONDITIONAL USE PERMIT TO RENT AN UPPER LEVEL APARTMENT AT W62 N559 WASHINGTON AVENUE AS A TOURIST ROOMING HOUSE – GREAT MJM RENTALS, LLC/JOE AND MICHELLE TARABOI**

A motion was made by Council Member Thome to declare the public hearing open at 7:02 p.m. The motion was seconded by Vice Chairperson Burgoyne and carried without a negative vote.

Planner Censky reported that Joe and Michelle Taraboi were seeking conditional use approval to use an upper level apartment unit in their downtown building located at W62 N559 Washington Avenue for tourist rooming purposes. They advise that the unit would be rented for a period of a minimum of two nights up to six months. Planner Censky noted that the Zoning Code was amended in 2014 to add Tourist Rooming Houses to the list of permitted Conditional Uses in the B-3 District. Tourist Rooming Houses are defined as: **All lodging places and tourist cabins and cottages, other than hotels and motels, in which sleeping accommodations are offered for pay to tourists or transients as regulated under Wisconsin Chapter DHS 195.** A tourist or transient is defined as **a person who travels to a location away from his or her permanent address regardless if the tourist or transient is there for the season, the month, a week, or a day or less.**

The site is supported by a private parking lot located to the rear of the building. No exterior changes to the site or building are proposed with this request. The use appears to be appropriate in the downtown area and staff review of the site indicates sufficient parking to support this request.

Ms. Taraboi advised that the intention is to rent out the two-bedroom apartment to fill the void between long-term rentals with a minimum stay of two nights. Both Joe and Michelle Taraboi agreed to file a quarterly report on rentals to determine room taxes owed.

Assistant Attorney Schoonenberg advised that the State Code defines short-term rentals as fewer than 29 consecutive days.

Mayor O'Keefe asked the audience if anyone wanted to comment. None were offered.

**Action to Close Public Hearing:**

A motion was made by Vice Chairperson Burgoyne, seconded by Council Member Thome, to close the public hearing at 7:12 p.m. The motion carried without a negative vote.

**Final Action:**

Vice Chairperson Burgoyne moved to approve the Conditional Use Permit request with the following conditions:

1. Short-term rentals shall be fewer than 29 consecutive days.

2. The applicant is to document the long term/short term stays and submit that information to the City Treasurer's Department along with their quarterly room tax report.
3. Any substantiated problems with this use shall be corrected by the owner immediately upon notification and if left uncorrected, may result in the revocation of the conditional use permit.
4. Cedarburg Fire Department will follow the State Licensing Bureau for Rooming Houses, NFPA 1 Section 20.10 and NFPA 101 Life Safety Code.
5. Smoke detectors and CO detectors are to be installed and properly maintained.

The motion was seconded by Council Member Thome and carried without a negative vote.

**REQUEST APPROVAL OF PLANS FOR A NEW HOME ON A VACANT 0.410-ACRE LOT ON THE SOUTH SIDE OF WESTERN ROAD APPROXIMATELY 600 FEET WEST OF EVERGREEN BOULEVARD – LORI AND ROGER GERVAIS**

Planner Censky advised that Lori and Roger Gervais recently purchased this site and removed numerous trees in preparation for the development of a single-family home. Since this lot is located in a predominately built-up area where it is bounded on two or more sides by existing homes, it is classified as an infill lot. According to Section 13-1-122 of the Zoning Code, architectural plans for infill lots shall be submitted to the Plan Commission and its Commissioners shall determine that the structure is compatible with the surrounding area and either approve, approve conditionally, or reject the plans.

The plans fully comply with the dimensional requirements of the RS-3 Zoning District and is consistent with development in the area.

Mr. Gervais provided color and material samples that were reviewed by the Commissioners as follows:

1. Siding would be painted LP White (LX PRO) even though the rendering portrayed the color as grey.
2. Gutters would be the Rainware Selection from ABC Supply color New Linen.
3. Awning would be Firestone UNA-CLAD color Dark Bronze.
4. Windows would be Andersen White.
5. Shingles chosen are Certainteed in Moire Black.

Commissioners concurred that the proposed home would be complimentary and compatible with the neighborhood.

**Action:**

A motion was made by Commissioner Zimmerschied to approve the site and architectural plans as presented subject to securing a building permit prior to commencement of construction. The motion was seconded by Commissioner Voltz and carried without a negative vote.

**CONSIDER LAND USE PLAN AMENDMENT RECOMMENDATION AND REZONING RECOMMENDATION FOR TWO-LOTS LOCATED AT THE NORTHWEST CORNER OF CARDINAL AVENUE AND PIONEER ROAD TO ALLOW FOR COMMERCIAL DEVELOPMENT – KETTLE MORaine APPLIANCE/JIM OTTEN**

Planner Censky reported that Jim Otten recently purchased the former Formart Container building at the northwest corner of Pioneer Road and Cardinal Avenue and is proceeding to convert it into a Kettle Moraine Appliance store. His plan is to have retail space, a show room and storage area along with space to be leased for office and/or retail tenants along the inside east wall of the building. While the M-2 General Manufacturing District does include limited retail, it must be related to or incidental to the principal use and then cannot exceed 20% of the floor area of the building. Accordingly, since his proposed retail area exceeds 20% of the floor area of the building and that retail component is not exclusive to the principal use, the applicant must first pursue a Land Use Plan amendment and rezoning before his detailed renovation plans can be considered.

***Land Use Amendment:***

City records indicate that back in 2014 the Common Council, following a recommendation from the Economic Development Board and the Plan Commission, amended the Comprehensive Land Use Plan – 2025 for this area of Pioneer Road as follows: “because of the high visibility and substantial traffic counts, coupled with development patterns trending toward customer service and retail type uses, this area should be targeted for those types of uses in the future.” Accordingly, since Mr. Otten’s proposed use is consistent that target, the request is to change the Land Use Classification showing on the map from the Office and Industrial/Manufacturing classification to the Commercial Classification.

***Rezoning:***

This project covers two separate parcels: one that fronts Pioneer Road only which is zoned B-4 Office District. The other fronts both Pioneer Road and Cardinal Avenue and supports the existing building which is zoned M-2 General Manufacturing. To support this project both sites will need to be rezoned to B-2 Community Business District.

***Concept Plan:***

While the site and architectural plans are not presented for consideration at this time, Commissioners were encouraged to offer feedback to help Mr. Otten finalize his plans for submittal at a later date. The following comments are the result of the various City Department staff’s review:

1. The applicant will need to modify the plans as necessary to comply with Wisconsin DNR regulations.

2. A 5-foot public sidewalk will be required along Pioneer Road extending around and up Cardinal Avenue.
3. Submittal of a Certified Survey Map showing a 30-foot public road right-of-way dedication along Cardinal Avenue and necessary utility easements.
4. The building will need to be equipped with a sprinkler system approved by the Fire Department.
5. The applicant will need to meet with the Fire Department to discuss location of fire protection equipment and to verify that the driveway has sufficient turning radius for fire trucks.

Planner Censky added that the vegetation was removed from the site and was graded prior to obtaining approvals. Mr. Otten is currently working with the DNR to remedy the situation.

**Action:**

Commissioner Cain moved to recommend a Land Use Plan Amendment for the vacant site adjacent to and east of N144 W6166 Pioneer Road from the Office Classification to the Commercial Classification, and for the site at N144 W6050 Pioneer Road from the Industrial and Manufacturing Classification to the Commercial Classification; and to recommend rezoning for the vacant site east of N144 W6166 Pioneer Road from B-4 Office District to B-2 Community Business District, and for the site at N144 W6050 from M-2 General Manufacturing to the B-2 Community Business District. The motion was seconded by Commissioner Zimmerschied.

**Continued Discussion:**

Gus Wirth of N48 W6000 Spring Street explained the grading of the site has caused flooding on his property to the west of the new development. Mr. Wirth noted that Mr. Otten was doing an excellent job of improving his site. He would, however, like to see piping of stormwater to the park be restored.

Mr. Otten agreed that he would do whatever needed to be done to correct the problem.

**Final Action:**

The motion carried without a negative vote.

**APPROVAL OF FIVE NEW LOCATIONS FOR MOBILE FOOD ESTABLISHMENT LICENSE – THAT TACO GUY LLC/ANDREA ACOSTA**

Commissioner Zimmerschied recused himself.

Planner Censky advised Commissioners that The Mobile Vendors License Ordinance was adopted early in 2017 and serves to restrict where mobile food trucks can be parked. Specifically, **Section 7-18-2 License Required** states: **It shall be unlawful for a person to operate as a Mobile Vendor or Mobile Food Establishment, serve, sell or distribute food from a Mobile Food Establishment or cook, wrap, package, process, serve or portion food in a Mobile Food Establishment in the City of Cedarburg without first having obtained a valid Mobile Vendor or Mobile Food**

**Establishment license from the City of Cedarburg Plan Commission.**

According to this ordinance, anyone wishing to sell from a mobile food truck in the City of Cedarburg must first acquire a Mobile Food Vendors license and then receive Plan Commission approval for each site within the City that they intend to park the truck. Last year, Mr. Acosta received a Food Vendors License that is valid through 2018 and is now requesting approval for five additional sites over the three sites he received approval for last year. The new sites include: **the Thorson, Webster and Westlawn Public School sites; the Cedarburg Public Swimming Pool site; and the Cedarburg Cultural Center site.** According to their information, Eli and Andrea Acosta has established their hours of operation with Director Hilvo for the Pool site, the use of the Cultural Center will be limited to the dates associated with the Cedarburg Children's Theater, and has dates set for the school sites for either teacher lunches or meal night fundraisers on or before June 14, 2018.

The Police Department has already conducted its background check.

Andrea Acosta of That Taco Guy LLC advised that the dates at the pool would be an opportunity for fundraising for the pool. The Cultural Center Children's Theatre is asking them to be available one night per weekend, due to the lack of time for the participants to have a meal before the show. The Westlawn School event would also be an opportunity for fundraising for Westlawn.

**Action:**

A motion was made by Council Member Thome, seconded by Commissioner Voltz, to approve the new locations as presented. The motion carried without a negative vote, with Commissioner Zimmerschied recused.

**COMMENTS AND ANNOUNCEMENTS BY PLAN COMMISSIONERS**

No comments or announcements were offered.

**MAYOR'S ANNOUNCEMENTS**

Mayor O'Keefe introduced new member Adam Voltz and welcomed him to the Commission.

**ADJOURNMENT**

A motion was made by Council Member Thome, seconded by Vice Chairperson Burgoyne, to adjourn the meeting at 7:37 p.m. The motion carried without a negative vote.

Darla Drumel,  
Administrative Secretary